

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Elton Williams, #98912-071,)	
)	C/A No. 0:07-0267-MBS
Petitioner,)	
)	
vs.)	
)	OPINION AND ORDER
Warden M. Pettiford,)	
)	
Respondent.)	
)	

Petitioner Elton Williams is an inmate in custody of the Federal Bureau of Prisons who currently is housed at FCI-Bennettsville in Bennettsville, South Carolina. Petitioner filed the within petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on January 29, 2007.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. The Magistrate Judge reviewed the allegations of the petition pursuant to 28 U.S.C. §§ 1915, 1915A, and the Anti-Terrorism and Effective Death Penalty Act of 1996. On April 5, 2007, the Magistrate Judge issued a Report and Recommendation in which he noted that Petitioner § 2241 petition raises claims similar to those raised in a prior motion pursuant to 28 U.S.C. § 2255. See Williams v. United States, C/A No. 3:04-0106-MBS. Among other things, the Magistrate Judge determined that Petitioner's claims as set forth herein are cognizable only pursuant to § 2255 and, because Petitioner has not received permission from the Court of Appeals for the Fourth Circuit to file a successive § 2255 motion, the court is without jurisdiction. Accordingly, the Magistrate Judge recommended that the within petition be dismissed without prejudice and without issuance and service of process upon Defendant. Petitioner filed no objection to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein by reference. Accordingly, the within action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Court

Columbia, South Carolina

May 7, 2007

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.